IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 157 of 2005 (S/B)

Chetan Das Arora S/o J.D. Arora,
R/o 429 Vijay Park Extension, Dehradun,
Presently posted and working as Assistant Engineer
In the office of Chief Engineer,
Minor Irrigation Department,
Uttaranchal, Dehradun. ……. Petitioner

Versus

1. State of Uttaranchal,
through Secretary, Irrigation and Energy Department,
Govt. of Uttaranchal,
Civil Secretariat, Subhash Marg, Dehradun.
2. Chief Engineer & Head of Department,
Minor Irrigation Department,
Govt. of Uttaranchal, Dehradun.
3. Enquiry Officer/ Superintending Engineer,
Minor Irrigation, Circle Pauri,
District Pauri Garhwal, Uttaranchal. …… Respondents

Mr. Vipul Sharma, Advocate for the petitioner.
Mr. J.P. Joshi, Chief Standing Counsel for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA C, J. (Oral)

Mr. Vipul Sharma, Advocate for the petitioner.

Mr. J.P. Joshi, Chief Standing Counsel for the respondents.

They are heard.

2. Mr. J.P. Joshi, the learned Chief Standing Counsel for the respondents has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal.

3. Mr. Vipul Sharma, the learned counsel for the petitioner could not demonstrate as to how the alternative remedy of filing a claim petition before the Public Services Tribunal is not efficacious in the present case.

4. in this view of the matter and following the Division Bench decisions in the cases of **Bhuvan Chandra Pandey & others Vs. State of Uttaranchal & others** reported in **2006(2) U.D. 439** and **Nanda Ballabh Pant Vs. State of Uttaranchal & others (W.P.S.B. No. 257 of 2005),** we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

5. The writ petition, therefore, is liable to be dismissed.

6. The writ petition, therefore, is dismissed with the liberty to the petitioner to file a claim petition before the Public Services Tribunal for the redressal of the petitioner's grievances projected in the writ petition and also to seeks condonation of the delay in filing the claim petition on the ground that the petitioner was pursuing this writ petition under bonafide belief.

7. With the above order CLMA No. 10533 of 2005 also stands disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**
21.05.2007 21.05.2007

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